



## MEMORANDUM

B&F

AGENDA ITEM NO. 7 (A)

**To:** Honorable Natacha Seijas and Members  
of the Government Operations and  
Environmental Committee

**Date:** February 12, 2004

**From:** George M. Burgess  
County Manager

**Subject:** Incorporation and  
Annexation Policy  
Options

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### BACKGROUND

This report has been prepared pursuant to the direction given at the Incorporation / Annexation Subcommittee Meeting of October 14, 2003. The Committee asked for a limited number of approaches that could be used to direct and guide incorporation and annexation. It was further noted by the Subcommittee that each approach should include specific policy options. The Chair and Members of the Incorporation / Annexation Subcommittee also expressed that policies towards incorporation and annexation should be clarified and formalized, as appropriate.

Before discussing the opinions reflected herein, it is helpful to review the current practices. There are two ways to initiate incorporation. The first is to present the Board of County Commissioners (BCC) with a petition of at least ten percent of the registered voters in the area requesting to incorporate. The second is through the Municipal Advisory Committee (MAC) process, in which the BCC approves a study area and appoints a committee of residents whom reside in the area. Both options include professional analysis and review and require staff input based on a set of pre-determined criteria. During the staff review process, if the area is considered a donor area, revenues generated by the area exceed the cost of providing municipal services, County staff negotiates mitigation with the area representatives.

Annexation policy is clearly laid out in Chapter 20 of the County Code. An annexation can be initiated by residents or a city. The resident process requires a petition with twenty-five percent of an areas registered voters and municipal approval prior to the County's review and approval. The revenues attributable to the annexation area will belong to the new municipality with the exception of the utility taxes and franchise fees that stay with the County as outlined in the County Code. It is important to note that the Charter allows the BCC to initiate an annexation only after obtaining the approval of the municipal governing bodies concerned. However, the Planning Advisory Board (PAB) can recommend an annexation to the BCC. Attachment A details the current process and practice.

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## **RECOMMENDATION**

Incorporation and annexation must be conducted in a deliberate and methodical manner. The results of these activities impact our community in many ways. Incorporation or annexation can affect an area and its adjoining community by changing the composition of communities both economically and socially. Some of the impacts could also affect services, as well as the taxes paid. The County has a clear role in ensuring that potential impacts are well analyzed and communicated effectively to all involved parties. Part of our stewardship of this process is to ensure that County residents continue to receive quality services and that proposed municipalities are viable and can service the needs of their citizens.

We must be careful to avoid the establishment of barriers to the growth and well-being of our community, as well as creating enclaves that would diminish the effective and efficient delivery of municipal services. Not all areas are viable as cities and others must significantly raise taxes to provide the same level of services the County provides. In addition, we must make every effort to protect the best interest of all County residents.

The report presents four approaches in response to the task given by the Subcommittee. In developing these approaches it became evident that the current policy, with some adjustments is an approach that ensures the long-term best interest of both municipal and Unincorporated Municipal Service Area (UMSA) residents. We do not recommend any one of the four approaches; but a melding of all of the policies within each approach. I take this opportunity to remind the Board of the comprehensive report developed in July of 2001. The report recommendations contained in this report reflect what I feel is the most appropriate approach to incorporation and annexation.

There are also some major policies which should be thoroughly discussed, developed and considered by the full Board before a path is charted on this matter. I see these as formally establishing policy concerning the mitigation from Commercial Business and Industrial Areas (CBI) and Facilities of Countywide Significance policies, addressing incorporation outside the Urban Development Boundary (UDB), requiring annexing areas to remain within the fire district, and finally the funding methods for Specialized Police Services and fully addressing the topic of establishing a quality regional police service.

As we implement these policies, we should consider the impact of recent incorporations on the County. I ask this so that we have time to evaluate the true impact on the County and to study how to best develop a plan for how this County should look like in the future. In the interim, there is a good opportunity to look at annexation as a way of addressing some service concerns before proceeding with incorporations. At the same time we should ensure that cities are looking to adjust their boundaries in a way that makes sense for service delivery to adjacent areas. Cities should ensure that the appropriate levels of service are provided and that annexations are undertaken in a fiscally responsible manner.

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My recommendation is that the Board continues with established policies and implement complementary policies that allow areas to self determine their destiny and protect the best interest of all County residents. The current practice is close to achieving this goal and in my estimation is the best of the attached approaches to working with the Subcommittee and the BCC to strengthen the current process and to better inform the community and participants in this area of how our policies work. In particular I believe we need to revisit certain policies related to infrastructure and finances. At the same time I believe we need to discuss how incorporation movements and votes take place so that citizens are appropriately informed and participate in the process.

As you review the attached matrices there are polices in each that you can select and that staff can merge into a new and revised proposed process. While I have laid-out a new way of framing the incorporation and annexation topic, I reaffirm that there is no one approach that fits the entire community. I do strongly believe that your current policy best achieves all of the intended goals and that it should be adjusted to further improve the current process.

### **CHALLENGES AND PRACTICES**

There are some issues that present more discussion, confusion or debate than others in the area of incorporation and annexation. In staff's observation, the following topics can be addressed so that the general public, County departments and employees better understand this controversial subject.

1. There is currently no policy requiring full incorporation
2. Ensuring that areas understand the term mitigation and it's use
3. The use of UMSA revenues to pay debt service for projects in UMSA (i.e. QNIP bond projects)
4. The impact on UMSA employees and services as incorporations and annexations take place and planning for the concomitant budgetary impact
5. Policies for services impacted by incorporation/annexation
6. Capital and infrastructure requirements of new cities
7. Effect of new municipality opting out of the Miami-Dade Stormwater Utility District and the effect on debt service

The above should be key elements in considering any policy scenario and are detailed later in this report.

The BCC has addressed certain concerns over some of these impacts with regard to the fire district, specialized and local police services, solid waste services and library district and practices have been codified so that any new municipality is required to agree to:

- Contract for local patrol with MDPD for a minimum of three years
- Contract for specialized police with MDPD in perpetuity
- Stay within the fire district (for incorporations)

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- Stay within the library district
- Continue using Miami-Dade Solid Waste Department
- Continuation of areas share of fire debt service (on annexations to existing cities)

The BCC has yet to address certain concerns over some of these impacts with regard to the fire district, specialized and local police services, solid waste services and library district and practices have been codified for incorporations but not for annexation, these items are as follows:

- Contract for Specialized police with MDPD in perpetuity
- Stay within the fire district
- Stay within the library district
- Continue using Miami-Dade Solid Waste Department
- Continuation of areas share of fire debt service (on annexations to existing cities)

### **INCORPORATION HISTORY**

Miami-Dade County (MDC) is currently made up of over 2.2 million residents. Over one million County residents live in one of the 34 existing municipalities, while the others reside in the UMSA. MDC provides municipal-type services to the residents not living in municipalities. The UMSA millage rate for the provision of municipal-type service is one of the lowest in the County at 2.447 mills for FY 03-04.

From 1990 to 2000 Miami-Dade County approved four incorporations and there was one failed incorporation attempt. The State of Florida Legislature, who approves incorporations and annexations for the remainder of the state, over the same period of time approved 11 incorporations and three mergers, and rejected eight incorporation attempts.

As we discuss the topic of incorporation the subject of how we arrived to this point typically arises. Below for your reference is a brief synopsis of the seven incorporations that have transpired in Miami-Dade County since 1991.

**Key Biscayne** - On June 5, 1990, the BCC initiated the process to create the new municipality of Key Biscayne by passing R-528-90. While the word petition is not part of the language in the resolution, the WHEREAS reading: "a number of Key Biscayne residents have expressed a desire that Key Biscayne becomes its own municipality," seems to indicate that residents petitioned the commissioner who sponsored the resolution. The resolution provided for the PAB to make recommendations, for a public hearing to take place before the BCC, and for an affirmative vote of a majority of the resident electors in Key Biscayne. The election was held on November 6, 1990, and the Village charter was approved on June 6, 1991.

**Aventura** - A formal petition for incorporation was submitted on April 19, 1994, on behalf of the Aventura/Biscayne Committee for Incorporation, Inc. by Eugene Sterns, Esq. The petition outlined a series of steps for the BCC to consider in the creation of the

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new municipal government. Those steps consisted of a PAB recommendation, a public hearing before the BCC, and an affirmative vote of the resident electors. The election was held on April 11, 1995. On May 2, 1995, the BCC approved Ordinance 95-73, creating the City of Aventura. The city charter was approved on November 11, 1995.

**Pinecrest** – The incorporation movement in the Village of Pinecrest began in September of 1994. On June 8, 1995, after a positive recommendation from the Planning Advisory Board, Resolution 809-95 was passed by the BCC which scheduled an election of the area on September 19, 1995. After an election on September 19, 1995, the BCC approved Ordinance 95-207 on November 21, 1995. The Village charter was approved on March 12, 1996.

**Sunny Isles** - The incorporation of Sunny Isles was different from the previous incorporations because the BCC required the submission of a "Consent to Petition for Incorporation" in accordance with Ordinance 95-78. The petition needed to be signed by four percent of the resident electors in the area. The petition was submitted to the Clerk of the Board on May 17, 1995. After an election on January 7, 1997, the BCC approved Ordinance 97-07 on January 28, 1997. The city charter was approved on June 16, 1997.

**Miami Lakes** - Miami Lakes differed from any of the previous incorporations in that it was the first to go through the incorporation movement with a Municipal Advisory Committee (MAC). Through the MAC process the area was determined to be a donor community, in other words, the revenues generated in the area exceed the cost of providing services. The MAC negotiated with the County and agreed to pay 1 mill of their taxable value on the date of incorporation; the payment will be adjusted annually by the Consumer Price Index (CPI). The County will use these funds to mitigate their impact to the remainder of UMSA. The voters of the area approved the creation of the Town of Miami Lakes on September 5, 2000 and approved the town charter on December 5, 2000. Subsequently, the Miami-Dade County Code was amended on February 26, 2002, to require the new municipalities to stay within the Fire District, Library District, keep Miami-Dade Solid Waste services, specialized police services in perpetuity and Local Patrol with the Miami-Dade Police Department for a minimum of three years.

**Palmetto Bay** - Like Miami Lakes, the area of Palmetto Bay also navigated through the MAC process. Palmetto Bay was also determined to be a donor community. The MAC negotiated with the County and also agreed to annual payments equal to the value of 1 mill of their taxable value on the date of their incorporation. The County will use these funds to mitigate their impact to the remainder of UMSA. Like Miami Lakes, the new municipality was required to stay within the Fire District, Library District, keep Miami-Dade Solid Waste services, specialized police services in perpetuity and Local Patrol with the Miami-Dade Police Department for three years. The voters of the area approved the creation of the Village of Palmetto Bay on February 5, 2002 and also approved the village charter on September 11, 2002.

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**Miami Gardens** - Like Miami Lakes, the cities of Palmetto Bay and Miami Gardens also navigated through the MAC process. Miami Gardens was the first community to incorporate that was considered by the County to be a recipient community, in other words, the revenues generated in the area do not cover the cost of providing the existing level of services. The MAC members determined that by incorporating, the area could provide municipal services to the area more efficiently at the current millage rate than the County, and indicated that County staff had underestimated the potential revenue from other sources. The MAC recommended that the community should be granted the opportunity to incorporate. Like Miami Lakes and Palmetto Bay, the new municipality was required to stay within the Fire District, Library District, keep Miami-Dade Solid Waste services, specialized police services in perpetuity and Local Patrol with the Miami-Dade Police Department for at least three years. The voters of the area approved the creation of the City of Miami Gardens on January 28, 2003 and the city charter on May 13, 2003. As of this writing, the city has yet to approve any service oriented or transition interlocal agreements with the County.

**Doral** - The Doral area also navigated through the MAC process. The Doral area was different than the three cities before in that its boundaries included a large area of a Commercial Business Industrial Area (CBI). Doral was considered to be a donor area. The MAC negotiated with the County and agreed to annual payments equal to the value of 1.5 mills of their taxable value on the date of incorporation, the payment will be adjusted annually by the CPI for the residential; and the CBI area would make payments equal to 1.5 mills of its taxable value annually to the County. The County will use these funds to mitigate their impact to the remainder of UMSA. Doral was also required to stay within the Fire District, Library District, keep Miami-Dade Solid Waste services, specialized police services in perpetuity and Local Patrol for a minimum of three years with the Miami-Dade Police Department for three years. The voters of the area approved the creation of the City of Doral on January 28, 2003 and also approved the city charter on June 24, 2003. As of this writing, the city has yet to approve any service oriented or transition interlocal agreements with the County.

#### **CURRENT AND PAST MAC EFFORTS**

There are currently eight active MACs. Staff is working with the Northeast MAC, North Central MAC, Fontainebleau MAC, East Kendall MAC, Redland MAC, GOULDS MAC, PLANT MAC, and Biscayne Gardens MAC. These MACs are at different stages in the process. In addition, the Cutler Ridge MAC has recently completed its study and it is pending Boundaries Commission review. The Village of the Falls area opted out of the East Kendall MAC study and has petitioned the County to incorporate into its own municipality. The petition is pending Boundaries Commission review.

Staff has observed that each of the above areas is expressing varying levels of interest and challenges. Some are moving forward quickly and cohesively while others have significant dissent and a majority of the participants have expressed no desire for incorporation. Some of the above areas are recipient areas or their financial picture

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requires that they raise their respective millage rates to continue to provide the same level of service provided by UMSA.

Prior areas that have studied the incorporation option and disbanded their efforts due to lack of interest are the Northwest, West Dade and West Kendall MAC areas.

**PRIOR INCORPORATION AND ANNEXATION STUDIES**

Throughout the years there have been a number of studies initiated by Board and staff to look into the incorporation and annexation issue. No formal guiding policy has been adopted. Some of the studies have made police recommendations. Attachment B contains the prior studies with a brief synopsis of each. I also make available to you by request the July 12, 2001 Incorporation and Annexation Report and Policy Recommendations. The report has previously been distributed, but I welcome the opportunity to re-visit it at your request.

**OTHER INCORPORATION MODELS**

Staff is often asked how other areas handle incorporation and annexation. Included below are summaries from what Broward County is currently pursuing and a model from California that has created a formalized structure. It is interesting to note that both entities struggle with the same concerns as MDC and that in California a driving policy is to ensure that the remaining County services are not negatively impacted by incorporation.

Incorporation within Broward County, unlike Miami-Dade County which has home rule authority, is controlled by the State Legislature. Broward is pursuing to have all the unincorporated areas merged into surrounding municipalities by 2005. Although this is their goal, they are having considerable difficulty with requiring existing cities to annex areas. Furthermore, it is estimated that there will be a population of over 80,000 in the remaining unincorporated area if cities continue to resist annexations. Some municipalities are avoiding annexing areas due to the concern of having to reduce services or increasing the millage rate to keep the same level of services. As the unincorporated area is reduced, the cost of providing service increases.

In California, each county has it's own Local Agency Formation Commission (LAFCO) responsible for coordinating logical and timely changes in local governmental boundaries, including annexations and detachments of territory, incorporations of cities, formations of special districts, and consolidations, mergers, and dissolutions of districts, as well as reviewing ways to reorganize, simplify, and streamline governmental structure. In 1994, LAFCOs were given the authority to initiate proposals involving district consolidation, dissolution, establishment of subsidiary districts, mergers, and reorganizations (combinations of the above jurisdictional changes). In addition, LAFCO is responsible for reviewing contractual service agreements between property owners and service providers. The Commission also is charged with developing and updating spheres of influence for each city and special district within the county. Spheres are planning

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tools used to provide guidance for individual proposals involving jurisdictional changes, and are intended to encourage efficient provision of organized community services and prevent duplication of service delivery. A territory must be within a city or district's sphere in order to be annexed.

The primary legislation governing this process is the Cortese/Knox-Hertzberg Act of 2000 (originally passed as the Knox-Nisbert Act in 1965) that discourages urban sprawl and encourages the orderly formation and development of local government agencies. LAFCOs are also tasked with reviewing municipal services that include infrastructure needs or deficiencies, growth and population projections, financing constraints and opportunities, opportunities for rate restructuring, opportunities for shared facilities, government structure options, evaluation of management efficiencies and local accountability and governance. One of the first major policy changes to the act came in 1992 when the "revenue neutrality" provision was incorporated. The provision stated that the amount of revenues taken from a county after incorporation must be equal to the amount of savings the county would have by not providing the services to the area. Since its enactment, only seven incorporations have been successful. The last major change occurred in 1997 when the legislature passed legislation (AB62-McClintock & Hertzberg) which repealed the ability of a city to veto a simultaneous detachment and incorporation proposal. This legislation allowed the secession of the San Fernando Valley from the City of Los Angeles.

Each LAFCO has a different approach for handling an application, the general procedure has uniform steps: (1) a proponent files an application (2) the LAFCO executive officer reviews the application (3) a public hearing is set (4) notice is sent to affected parties and (5) a written report and recommendation are completed. If the application is approved at the public hearing, the proposal is sent to the conduction authority for a protest hearing and final approval and election if necessary. For example, Orange County LAFCO has adopted a specific policy addressing revenue neutrality for incorporations including a specific process for negotiating the amounts of revenue neutrality.

### **MAJOR POLICIES**

In this report, I identify pivotal policies for the continued provision of quality services to UMSA residents and for incorporations to move forward successfully. I have detailed these policies below and provided other significant issues for your information. Staff and I support these policies and recommend their continued use and further clarification if necessary.

### **MITIGATION AND MOST FAVORED NATION STATUS**

The topic of mitigation has raised some challenges as this policy is codified for incorporations but not for annexations. This policy has been in place since the creation of Miami Lakes. Ordinance 02-26, created Section 20.26 of the MDC Code. The Code requires incorporations to be revenue neutral or that new municipalities mitigate the negative impact of their incorporations on the UMSA budget. The BCC reserved for



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itself the authority to set the mitigation amount. Miami Lakes and Palmetto Bay both negotiated to pay 1 mill of their taxable value per year. These communities were residential and did not include any CBI within their boundaries. Doral included a large CBI area within their boundaries. At the Doral BCC hearing staff recommended 100% mitigation on the CBI area, but the BCC adjusted it to 1.5 mills representing 87% of the excess CBI revenues while the 1.5 mills represented 39% of the excess revenues in the residential area. Because of the favored nations language in the prior charters, it has been determined that if the BCC adopt any future cities mitigation below that of Doral, their favored nations status clause would be triggered. Thus the Doral mitigation amount has become the benchmark for future incorporations.

**Incorporations** – The County should consider 100% mitigation from proposed municipalities only when the area is a donor community, i.e., estimated revenues to UMSA exceed the estimated cost of providing services to the area.

**Annexations** - Recently, we reached agreement with the City of Hialeah and Medley for mitigation of the net surplus generated by the portion of the CBI area they were annexing.

It is recommended that the mitigation policy be continued as it allows for UMSA to retain some of the revenues it would lose as a result of the incorporation or annexation.

**Commercial Business Industrial Area (CBI)**

Retention of CBI areas helps reduce the negative impact on the incorporation of affluent areas on UMSA - if retention is not a viable option, mitigation should be sought from the annexing or proposed municipality.

<b>CBI AREA</b>	<b>Proposed Incorporation Area Overlap</b>
Airport West	Partially within City of Doral
Calder Race Track/Pro Player Stadium	Partially within City of Miami Gardens
Cutler Ridge	Partially within Cutler Ridge MAC study area
Dadeland	Partially within East Kendall MAC study area
Gratigny	Partially within North Central Dade MAC study area
Mall of the Americas	
NE Industrial Area	Partially within the City of Miami Gardens
NW Industrial Area	Partially within Medley and Hialeah Gardens annexation area
Tamiami Airport	
The Falls	
Tropical Park	

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### **FACILITIES OF COUNTYWIDE SIGNIFICANCE**

Areas or facilities of Countywide significance are private or public lands in UMSA that the BCC deems necessary to keep regulatory control over its land use, development and service delivery to promote the health, safety, order, convenience, prosperity, and welfare of current and future residents and tourists.

The BCC should retain jurisdiction for purposes of zoning and building approvals, water and sewer installations, and compliance with environmental and utility regulation.

This issue is currently dealt with as each incorporation or annexation comes forward, language is placed in the conceptual agreements, charters or interlocal agreements to address each area of concern. The BCC should adopt a Countywide policy to address facilities of Countywide significance.

### **DEBT SERVICE**

The Code should be revised to indicate that new cities and cities annexing currently unincorporated land, are required to agree that until bonds secured through stormwater utility fees and public service taxes and fees are retired, the County shall have the right to receive and apply to debt service the above subject taxes and fees. After the County has paid or satisfied the monthly debt service requirements of the bonds, the County shall make a payment to the city equal to its share of the remaining fees and taxes on deposit with the County. Each city's debt service share will be determined by expressing the fees and taxes collected within the city at the time of incorporation as a percentage of the total fees and taxes collected within UMSA at the time of incorporation and any municipality incorporated after January 1, 2003, and apply that percentage to the total annual debt service on the bonds.

Cities annexing lands only have to consider the stormwater utility debt service payments because the County retains the utility taxes per code.

Cities not part of the Miami-Dade County Fire Rescue District interested in annexation should be required to continue to pay the annexed area's share of the fire district debt service (currently at 0.079 mills) until the debt is retired (2022).

### **AREAS OUTSIDE THE URBAN DEVELOPMENT BOUNDARY (UDB)**

Staff believes that incorporations or annexations outside the UDB should not be approved. However, should the Board determine that it is in the County's best interest to approve such an annexation or incorporation, the current policy that County retain jurisdiction for purposes of zoning and building approvals, water and sewer installations, and compliance with environmental and utility regulation should remain.

### **FIRE DISTRICT**

In order to protect the integrity of the fire district, as a condition of incorporation new municipalities are required to remain in the Fire District in perpetuity. However, as a currently written, the Code permits other municipalities to opt out of the Fire District. It is recommended that Section 18-30 of the Code be amended to prohibit all municipalities currently in the fire district to leave. That change will assist in protecting the integrity of the District as much as requiring new municipalities to remain in it. Also, it would be recommended that any annexed area should stay within the fire district.

### **APPROACHES**

As previously noted there is no single methodology or approach to the question of incorporation and annexation that fits the diverse community of Miami-Dade County.

In developing the options as requested we have identified four ways of classifying approaches to handling incorporation and annexation: 1) Self-Determination, 2) Aggressive Approach to Incorporation and Annexation, 3) Appropriately Resourcing UMSA Service, 4) Board Initiated Process. Some of the corresponding policies for each approach are existing policies, others would have to be created depending on the direction of the Subcommittee and Board. Attachment C lists the approaches and corresponding policies.

1- Self-Determination, outlines most of the currently codified and existing practices. Should the Commission desire to continue with incorporation and annexation in its current state, the policies in place would be sufficient. There are additional considerations that are not codified such as the payment of debt service obligations by new and annexing municipalities.

2- Aggressive Approach to Incorporation and Annexation, outlines a number of policy options that would make incorporation and annexation occur more rapidly, or be more favorable to the new or annexing municipality. For example; removing mitigation requirements for new municipalities would trigger the favored nation clause in previously incorporated cities paying mitigation, and they would no longer be required to pay; subsidizing County services for new municipalities would require UMSA residents to pay for the difference. The enactment of many of these policies would be to the detriment of the remaining UMSA area.

3- Appropriately Resourcing UMSA Service, outlines several policy options that are directly related to current UMSA residents' satisfaction with the services they receive or with the millage that is being paid for the services. Additionally, it also allows some UMSA residents to improve their level of service by utilizing additional revenue enhancement methods. The outcome of applying these policies could result in fewer incorporations by addressing resident's service demands.

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4- Board Initiated Process, outlines major policies needed to give the BCC greater authority over incorporation and/or annexation. Some of these require charter or code changes. This will allow the BCC to force UMSA areas to either incorporate and/or annex to an existing city in order to achieve a financially viable and revenue neutral municipality. With these powers the Board could create and implement a practical and feasible incorporation and annexation plan for all of Miami-Dade County. This approach would pose political challenges and the need for close working relationships with the existing municipalities and MACs.

### **OTHER CONSIDERATIONS**

Over the course of the years many high-level plans to guide incorporation and annexation have been presented, discussed and considered. Other than the ad-hoc model, no single guiding policy has been adopted. In my experience on this matter it is not a surprise as no one policy can be simply implemented.

#### **Annexation or Incorporation**

Annexation has been considered the preferred approach prior to incorporation in order to best control the number of cities and to create viable, functional governments. While in theory this makes sense it is difficult if not impossible to implement. As discussed earlier the Board does not have the power to force annexations. Thus, despite the County's best efforts some areas would never become part of a nearby city if such a city opposes the annexation of the area. Also millage rates play a large factor in this process. UMSA areas may not want to become part of adjacent cities because their millage rates will dramatically increase depending on the millage rate of the adjacent city. In other cases incorporation may make more sense due to matters of natural boundaries or community identification.

#### **Regional Government**


Another common thought is that MDC only provide Regional Government services. This of course requires a true two-tier form of government in which the County would function as a regional service provider with municipalities furnishing local services. This action would bring about questions such as should the County provide municipal type services to the new municipalities or should it provide regional type services and only contract for those services which it can. Continued incorporation would require some County departments to downsize their staffing levels and for total incorporation may completely disband the department while other departments may grow. Although difficult, it is a question of vital importance to the future of the County and how it will function in the future. Serious thought needs to be put into long-term planning and budget forecasting so as to have a minimal impact on the employees of the County.

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The two-tier form of government as it relates to incorporation and annexation can be accomplished through the execution of some of the policies listed in the attached options matrix. It would consist of a blend of different policies. One of the first questions for the BCC to consider is what services will the County continue to provide regionally if the County were to pursue complete incorporation. Depending on the answers to these questions, staff can further identify the policies that need to be in place to accomplish this task.

**Revenue Neutral Model**

Similar to the scenario above a Revenue Neutral Incorporation model has been presented and discussed. This approach would look at the whole County and recommend the creation of a limited number of cities through the entire annexation or incorporation of UMSA. This would ultimately result in the creation of the regional government system. While this is a clean academic exercise it is very difficult to implement. In many cases natural boundaries do not lend themselves to the creation of fiscally viable areas. Also the subject of community identification and history are significant factors to overcome. Additionally some areas currently identify with their place in UMSA and are not interested in either incorporation or annexation.



Alex Muñoz  
Assistant County Manager

## ATTACHMENT A

### CURRENT PROCESS AND PRACTICE

#### Current Code Mandated Incorporation Process

1	Steering committee submits petition or asks BCC member to sponsor a resolution to initiate process
2	BCC refers incorporation application to Boundaries Commission and Planning Advisory Board
3	Office of Strategic Business Management, and Department of Planning and Zoning staff prepare a report and transmit to the Boundaries Commission and Planning Advisory Board
4	Boundaries Commission holds public hearing on the incorporation, evaluates merits of the application, and makes a recommendation to the Planning Advisory Board
5	Planning Advisory Board holds public hearing on the incorporation, evaluates merits of the application, and makes a recommendation to the BCC
6	BCC holds a public hearing to determine whether or not the matter will be put to a vote of area residents
7	BCC schedules area residents' election
8	BCC appoints committee to write city's charter if an affirmative vote by area residents
9	BCC approves charter to go to a vote of area residents
10	Charter vote; if affirmative, a municipality is created

#### Current Practices for Incorporations

- Require new municipalities to remain in the Miami-Dade County solid waste collection system on a permanent basis
- Require new municipalities to enter into a contract with the Miami-Dade Police Department for an initial 3 year period with a 1 year transition after incorporation for patrol and other purely local police services
- Require new municipalities to continue to receive and pay for specialized police services provided by the County in perpetuity
- Require new municipalities to remain within the fire district in perpetuity
- Require new municipalities to remain within the library district in perpetuity
- Require new municipalities to continue to receive services from the Department of Solid Waste in perpetuity
- Draw boundaries in such a way that the proposed area is itself sustainable and the fiscal impact of the incorporation on the remainder of the unincorporated area is revenue neutral or require new cities make a mitigation payment to compensate for any negative fiscal impact of their incorporation on the remaining unincorporated area

## **ATTACHMENT A**

### **CURRENT PROCESS AND PRACTICE**

- Retain commercial and industrial areas as part of UMSA, or a new municipality should pay 100 percent of the difference between the revenues generated and expenses incurred in the area
- Retain regulatory control over facilities of countywide significance
- Consider incorporations outside of the Urban Development Boundary on a case-by-case basis
- Require new municipalities to pay their portion QNIP debt service

#### **Current Code Mandated Annexation Process – Governing Body Initiated**

<b>1</b>	Governing body requesting a boundary change will initiate a resolution after a public hearing as provided by the MDC Code
<b>2</b>	Said municipality will file with the Clerk of the Board an application for the boundary change to include all Code requirements and fee per AO 4-111
<b>3</b>	BCC refers boundary change application to Boundaries Commission and Planning Advisory Board
<b>4</b>	Office of Strategic Business Management, and Department of Planning and Zoning staff prepare a report and transmit to the Boundaries Commission and Planning Advisory Board
<b>5</b>	Boundaries Commission holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the Planning Advisory Board
<b>6</b>	Planning Advisory Board holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the BCC
<b>7</b>	BCC holds a public hearing to determine whether or not the matter will be put to a vote of area residents; If area has less than 250 residents BCC may approve without a vote
<b>8</b>	If vote is affirmative, boundary change becomes effective

## ATTACHMENT A

### CURRENT PROCESS AND PRACTICE

#### Current Code Mandated Annexation Process – Group or Individual Initiated

1	A person or group desiring a boundary change to a municipality shall initiate by filing with the Clerk of the Board a written petition signed by 25% of the areas electorate along with a resolution from the municipality approving the boundary change (no fee per AO 4-111)
2	BCC refers boundary change application to Boundaries Commission and Planning Advisory Board
3	Office of Strategic Management, and Department of Planning and Zoning staff prepare a report and transmit to the Boundaries Commission and Planning Advisory Board
4	Boundaries Commission holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the Planning Advisory Board
5	Planning Advisory Board holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the BCC
6	BCC holds a public hearing to determine whether or not the matter will be put to a vote of area residents; If area has less than 250 residents BCC may approve without a vote
7	If vote is affirmative, boundary change becomes effective

#### Current Practices for Annexations

- Require annexing municipalities to pay for fire debt service if they are not part of the fire district
- Retain utility taxes generated in the annexing area
- Retain franchise fees generated in the annexing area
- Retain commercial and industrial areas as part of UMSA, or annexing municipality should pay 100 percent of the difference between the revenues generated and expenses incurred in the area
- Retain regulatory control over facilities of countywide significance
- Consider annexations outside of the Urban Development Boundary on a case-by-case basis
- Retain garbage and refuse collection and disposal unless delegated by BCC
- Require annexing municipality to pay for stormwater utility debt service



## **ATTACHMENT B**

### **PRIOR STUDIES**

#### **Touché Ross Recommendations; A Report on Two-tier Government; June 12, 1978**

Form a two-tier form of metropolitan government in place of the status quo:

- Lower tier government units would have a population base of 100,000 to 250,000 to ensure a stable financial base and provide an effective minimum service level
- Miami-Dade County should be composed of a strong central core city surrounded by a group of ten economically viable cities whose populations would be between 100,000 and 150,000 each
- Create a local boundaries commission to review and recommend a two-tier structure
- Lower tier structuring should take into account:
  1. Projected growth trends and geographic trends
  2. Per capita assessment of municipal units should not vary by more than fifty percent
  3. Whenever possible, use historical tiers and inclusive community boundaries to ensure best chances of success for new municipal unit
- All municipalities perform similar lower tier functions and shared functions and upper tier County government should perform upper tier functions and shared functions only
- Fiscal equity disparities could be dealt with by sharing ad valorem revenues of non-residential assessments to provide a metropolitan revenue base for individual political jurisdictions, as in the example of the Twin Cities model

#### **1982 County Charter Review Commission Interim Recommendations; January 1, 1982**

Extend concept of two-tier government to give local residents ability to deal with local issues

- Retain existing cities and create limited purpose municipal units in the unincorporated area
- These limited purpose units would:
  1. Have elected governing boards with taxing authority
  2. Be precluded from direct provision of any service currently provided by the County, such as fire and police
  3. Give residents the ability to purchase higher level service from the County
  4. Operate under a defined maximum level of service enhancements possible to avoid gross inequities in service levels
- The local board's principal function would be making zoning decisions with an appeal mechanism
- Potential additional responsibilities of local boards might include:
  1. Authority to recommend establishment of special taxing districts and capital improvements
  2. Provision of services not presently available from the County

## ATTACHMENT B

### PRIOR STUDIES

3. Possible decision making authority over County funds being expended in unincorporated area, e.g., parking and street improvements
- Strategy:
  1. Develop specific County Charter amendments for voter consideration
  2. Review issues of:
    - a. Tax impact to residents
    - b. Definition of the limitation of authority for new government units
    - c. Criteria to be used in evaluating annexation requests and the creation of new government units

#### **Citizen's Charter Review Committee on the Dade County Charter; Final Recommendations; April 1, 1986**

- Promote the creation of new municipalities in the unincorporated area
- Pursue alternative ways to create these municipalities such as the creation of *contract cities* that would purchase services from Miami-Dade County

#### **Dade County Citizen's Advisory Committee on Countywide Incorporation; Final Recommendations; February 1992**

- Pursue total planned incorporation of the entire unincorporated area through annexations and the creation of new municipalities
  1. Miami-Dade retains control of the area west of the urban development boundary (UDB)
  2. Create boundaries commission to develop overall plan for annexations and creation of municipalities
  3. Review and eliminate enclave areas through annexations or incorporations
- BCC should undertake the following phase-in changes:
  1. Hold separate budget hearings for unincorporated area residents to distinguish UMSA from countywide budget items
  2. Elect interim municipal matters advisory councils in planned municipal areas
  3. Hold Commission zoning hearings and Zoning Appeals Board hearings in various areas to increase citizen participation
  4. Appoint only residents of the unincorporated area to boards that deal solely with unincorporated area issues
  5. Adopt an ordinance requiring that all future local government sales tax revenue received on the basis on unincorporated area population be allocated to the UMSA budget
  6. Clarify the incorporation process and the manner of processing incorporation proposals through Charter amendments and County Code provisions
  7. Conduct full analysis of implications related to repayment of bonded indebtedness and allocations of utility and franchise fees collected from annexed or newly incorporated area

## **ATTACHMENT B**

### **PRIOR STUDIES**

8. Charter should be amended to allow de-annexation of areas in municipalities upon petition without approval of governing body - electors must identify their intent to annex to adjacent city or incorporate
- If it is determined that new, full service municipalities will not be created, create regional zoning boards
- Publish a brochure explaining step-by-step process for annexation, incorporation and separations/de-annexations

#### **Citizen's Task Force on Incorporation; Final Recommendations; June 1994**

- Establish a two-tier government through municipal incorporation and annexation on a voluntary case-by-case basis, not a mandatory countywide approach, within the urban development boundary
- Adopt proposed ordinance specifying a procedure for incorporation and prepare an easily understood guide for both incorporation and annexation
- Establish local advisory councils as first step toward incorporation
- Amend annexation procedures to include an application review schedule and the issues that should be addressed in the application review and recommendation process, and request legal review of requirement for property owner approval
- Prohibit the creation of new unincorporated enclaves through annexation and encourage the elimination of existing enclaves by requiring bordering cities to indicate why they have not included such areas as part of the newly proposed annexations
- Do not deny incorporations or annexations because of fiscal impact and disparity concerns; address these issues in the future in other ways
- Provide municipalities, at time of incorporation and annexation, the ability to collect traditional municipal revenues such as franchise fees and utility taxes
- Size incorporation and annexations to result in municipalities that are efficient, effective, and diverse
- Amend the Miami-Dade County Home Rule Charter to eliminate the requirement for approval by a city before de-annexation can occur
- Continually reexamine the division of responsibility between the two tiers of government to improve the ability of Miami-Dade County and existing and newly incorporated municipalities to function more effectively and efficiently

#### **Planning Department Report: Issues Related to Incorporation; November 4, 1994**

The report was requested by the BCC to review and analyze the impacts of five alternatives for unincorporated area governance. The BCC asked that focus be placed on issue of fiscal equity.

The five alternatives were:

## **ATTACHMENT B**

### **PRIOR STUDIES**

- Unlimited, full cities (no boundary or other requirements)
- Limited, full cities (with boundary or other requirements)
- Service constrained cities (required to retain some County services)
- Revenue constrained cities (required to forego some revenue)
- Special purpose districts

The BCC requested further recommendations and in December 1994 instructed staff to focus on two basic approaches for the entire unincorporated area.

The approaches were:

- Comprehensive, concurrent incorporation of the unincorporated area into a number of new municipalities meeting criteria to address fiscal, social, and geographic issues
- Special purpose units with selected powers granted to locally elected officials to decide local issues such as zoning, budget, and special taxation

#### **County Manager's Report on Incorporation; Recommendations; June 6, 1995**

- Adopt a strategy for two-tier government enhancements by:
  - Adopting and implementing a strategy for incremental incorporation with criteria to include:
    1. Resource equity
    2. Efficiency of services
    3. Sense of identity
    4. Diversity/inclusiveness
    5. Area contiguity
    6. Community effectiveness
    7. Area-wide plan consistency
    8. Size suitability
    9. Creating community councils
- Place a three-year moratorium on incremental incorporations until community councils are fully established and functioning

#### **Planning Advisory Board Resolution on Incorporation; Recommendations; June 21, 1995**

- Gradual implementation of true two-tier government through incorporation and annexation with fiscal disparity mitigation measures
  1. Require review and recommendation from the Planning Advisory Board
  2. Incorporation proposals must meet criteria for population, diversity, economic efficiency, etc.
  3. Process should be able to start with a majority vote by citizens in area

## **ATTACHMENT B**

### **PRIOR STUDIES**

4. County retains control over land-use and zoning in areas of regional significance
- Regarding fiscal disparity mitigation:
  1. Develop and implement some form of revenue sharing on a countywide basis to mitigate economic losses in tax revenue base
  2. As an alternative, create countywide districts for specialized police services, fire district, juvenile welfare, etc.
- Until the incorporation process is completed, municipal advisory councils should be created to decide zoning matters and to recommend spending priorities within the district

## ATTACHMENT C

### INCORPORATION AND ANNEXATION SUBCOMMITTEE POLICY OPTIONS Self-Determination

Policy	Existing Policy	Policy Option	Pros	Cons
Incorporations to go through the MAC or petition process	MDC Code Chapter 20	Codify MAC process	Allows area to study the feasibility of becoming a municipality	MAC process is slower than a petition
Allow annexations to be initiated through cities or citizen initiated petition	MDC Code Chapter 20	Retain current policy	Allows areas two vehicles for beginning annexation process	If area has less than 250 electors BCC decides; if area is over 250 electors, area goes to vote
Negotiate with MACs or annexing cities mitigation on a case-by-case basis		Financial analysis for each area to determine mitigation	Allows mitigation to reflect the revenues being lost to the UMSA area	Communities feel that rules are different for different areas
Boundaries	Ordinance 02-130 limits MACs to commission district boundaries	Draw boundaries so that incorporations or annexations are revenue neutral	Eliminate the financial impact to the remaining UMSA	May require boundaries to be extended beyond natural barriers and historically recognized communities - existing policy limits this option
Mitigation	Retain revenue neutrality	BCC has the flexibility to establish mitigation	Allows UMSA area to continue to be viable as revenue is reduced	Municipalities may feel that mitigation is excessive
Retention of Franchise Fees and Utility Taxes for annexations	MDC Code Chapter 20	Retain current policy of retention of utility taxes and franchise fees	Allows UMSA area to continue to be viable	May be viewed as inequitable by other communities
CBI Current Practice	Not existing in code - Staff has recommended 100%, BCC sets actual mitigation	Amend code to require 100% mitigation on CBI areas	Enables County to continue to benefit from CBI growth	Incorporating or annexing cities may view this as unfair
Urban Development Boundary retain oversight over areas outside the UDB	Current Practice	Allow incorporation of areas outside UDB on a case by case basis	Allows the County to maintain oversight over land uses outside the UDB	Municipalities annexing area outside of UDB may view as inequitable

# ATTACHMENT C

## INCORPORATION AND ANNEXATION SUBCOMMITTEE POLICY OPTIONS

### Aggressive Approach to Incorporation and Annexation

Policy	Existing Policy	Policy Option	Pros	Cons
Annexation as the preferred option	Currently Not Codified	Reduce the petition % requirements to the same or below that of incorporation and review restrictive policies	Provides the ability to control the number of cities and ensures the fiscal strength of existing cities	May create enclaves and potentially reduce the UMSA revenue: departments servicing UMSA will begin to diminish as the service area and revenues diminish
Amend Administrative Order 4-111 regarding fees for annexing cities	Administrative Order 4-111 currently \$5.13 per acre	Municipal annexation applications will not require a fee	Formation of new city or annexation to existing city with fewer restrictions	Costs associated with processing the application will be borne by the remaining UMSA area
Reduce petition requirements for annexations or incorporations	MDC Code 20-3 25% for annexation and 20-20 10% incorporations	Reduce requirement to 10% and 5% respectively	Formation of new city or annexation to existing city with fewer restrictions	Allows small amount of voters to make determination for larger area
Set rules for mitigation at established % or millage beneficial to the new or annexing municipality	Retain Revenue neutrality	Mitigation for CBI areas should not exceed 50% of the excess revenues	Allows new municipalities to retain more revenues to provide a higher level of service	Departments servicing UMSA will begin to diminish as the service area and revenues diminish
Allow CBI areas to be annexed or incorporated with little or no mitigation	Retain Revenue neutrality	Mitigation for CBI areas should not exceed 50% of the excess revenues	Allows new municipalities to retain more revenues to provide a higher level of service	Departments servicing UMSA will begin to diminish as the service area and revenues diminish
Change MDC Code to allow annexing cities to retain utility taxes and franchise fees	MDC Code 20-8	Amend code to allow cities to keep utility taxes and franchise fees	Allows municipalities to retain more revenues to provide a higher level of service	Reduces UMSA revenue stream and eventually UMSA services will be reduced or millage will increase may trigger a reduction of mitigation payments from cities
Review capital commitments for annexed area or new municipalities	Current project phase (land acquisition, design, construction) is completed and no future dollars spent on project	Original cost of project would remain funded and given to the city to finalize	Allows municipalities access to capital funding	Will reduce capital funding for remaining UMSA
Consider and evaluate the policy of turning over county resources	Convey resources in as-is condition (parks, roads)	Provide infrastructure in pre-defined good condition to municipalities	Municipalities would get capital assets in good condition	Would require an increase in UMSA millage
Urban Development Boundary	Currently requires conformity with existing County CDMP requirements	Allow cities to determine their land use	Local control of area by citizens	Inconsistent with State Statute, the County's CDMP and would require the State to amend
Remove mitigation requirements	Code requires mitigation	No Mitigation	Allows new municipalities to retain more revenue	UMSA services may be diminished and/or a potential tax increase to UMSA
Preferred pricing for services to newly incorporated or existing cities	Currently Not Codified	Actively market County services to new and existing municipalities to allow for easier startup	Cities will be able to provide current levels of service at a lower price	Would require UMSA to subsidize services
Retention of Franchise Fees and Utility Taxes for annexations	MDC Code Chapter 20	Change code to allow the retention of franchise fees and utility taxes with the exception of cities with below per capita taxable value	Benefits cities with below per capita taxable value	May be viewed as inequitable by other communities

# ATTACHMENT C

## INCORPORATION AND ANNEXATION SUBCOMMITTEE POLICY OPTIONS

### Appropriately Resourcing UMSA Services

Policy	Existing Policy	Policy Options	Pros	Cons
Elimination of ability to incorporate or annex		Eliminate ability to create new cities and existing cities to annex unincorporated land	Will allow County to concentrate on improving the services being provided to UMSA	Disallows communities option of small localized governance
Moratorium on Incorporations and annexations	Was done from Jan 1998 to December 1998	Moratorium on incorporations and annexations	Allows County to develop strategies that will provide services in a more cost effective manner	Disallows communities option of small localized governance for a period of time
Increase petition requirements for incorporations	MDC Code 20-20 currently 10% of electorate in area	Amend code to require a higher percentage than current level of 10%	Requires a larger number of electors to make the determination if an area will go to vote	Communities may feel that the County is being more restrictive towards incorporation
100% Mitigation for residential incorporations	Retain revenue neutrality	Change MDC Code to require 100% mitigation on all incorporation areas	County will retain revenues to be used in UMSA	Communities wanting to incorporate may view this as excessive
Require 100% mitigation of CBI areas	Retain revenue neutrality	Change MDC Code to require 100% mitigation on all incorporation areas	County will retain revenues to be used in UMSA	Communities wanting to incorporate may view this as excessive
Address efficiency issues in enclave areas	Not actively pursued	Make annexation of enclaves attractive to municipalities (i.e. keep utility taxes and franchise fees)	Allow UMSA to concentrate service in large areas	Individuals in enclave areas may not want to be annexed to the municipality
Adjust UMSA millage to provide appropriate or enhanced levels of service	Not actively pursued	Provide UMSA with enhanced Public Works, Police, Parks and Code Enforcement services	Communities will receive better services and may not consider incorporation	Costs associated with enhanced services may be too much to bare
Create a police taxing district for local and specialized police to maintain the integrity of the Miami-Dade Police Department	Not currently being studied	Change County charter to create a police district and change code to require cities to remain within the district	A regional police force will be available to the County and may take over some other inefficient forces	Would require a countywide vote
New Town Concept	Not implemented	Allow communities to utilize SNID (Safe Neighborhood Improvement Dist) and CRA (Community Redevelopment Area) provisions of County Code (existing)	Will allow areas to provide their residents with increased services without creating another municipality	Not all citizens in the affected area will be able or want to pay the increased millage
Urban Development Boundary		Do not permit incorporations or annexations outside the UDB	Ensures efficient service delivery within the UDB	Does not allow self determination of areas outside the UDB
Actively market County services	Not currently being pursued	Aggressively pursue contract opportunities for new and old cities	Allow the County to continue to provide services/allows cities to benefit from County's economies of scale	May not be economically feasible to provide the service at the requested level
Annexation areas stay within fire district	Not currently being pursued	Annexation areas are required to stay within the Miami-Dade Fire District	Allow the fire district to remain whole providing for a regional force	Annexing cities with proper fire service will not want to duplicate service
Schedule election for Incorporations/Annexations on dates to coincide with countywide elections	Elections are scheduled by BCC within a number of days	Schedule elections along with Countywide elections	Allows more efficient use of resources and would essentially bring more individuals to vote	May require some areas to wait longer for a vote



# ATTACHMENT C

## INCORPORATION AND ANNEXATION SUBCOMMITTEE POLICY OPTIONS Board Initiated Process

Policy	Existing Policy	Policy Option	Pros	Cons
Change MDC Charter to allow MDC Commission to require annexations and /or incorporations and provide a venue to identify possible annexations	Not codified	Change charter to provide BCC the authority to approve annexations without a vote of electors	Would eliminate enclaves	Individuals in areas may not want to be annexed to the municipality - would require a countywide vote
Mitigation	Retain revenue neutrality	Charge donor areas 100% mitigation with a credit for the new city government costs (i.e. manager, council, atty)	Strikes a balance between the need of the area and remaining UMSA	Does not provide 100% mitigation
Change MDC Charter to allow for deincorporation with subsequent incorporation with vote	Code allows for deincorporation but does not force reincorporation or annexation activities	Change charter to include a deincorporation with a mandatory subsequent incorporation / annexation provision	Would allow areas to secede form a municipality and form a smaller municipality or merge with an existing municipality	May create more municipalities or increase the area/population of existing cities - would require a countywide vote
Change MDC charter to allow consolidations of cities	Not in charter	Amend charter to address consolidations of cities	May allow cities with high millage rates and/or poor services to consolidate with adjacent cities with opposite trends	More affluent cities may not want to annex poorer areas
Schedule election for incorporations/Annexations on dates to coincide with countywide elections	Elections are scheduled by BCC within a number of days	Schedule elections along with Countywide elections	Allows more efficient use of resources and would essentially bring more individuals to vote	May require some areas to wait longer for a vote
Change MDC Charter to allow BCC to impose annexation or incorporation at a point where UMSA is no longer fiscally viable	Not codified	Change MDC Charter to allow BCC to impose annexation or incorporation at a point where UMSA is no longer fiscally viable	Would allow enclaves to be eliminated and provide a vehicle where the County can fully incorporate if UMSA is no longer viable	Individuals in enclave areas may not want to be annexed to the municipality or may not be able to afford a potential increase in taxes - Would require a countywide vote